

BACHELLER LAW FIRM  
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Attorney for Creditor, Toyota Motor Credit Corporation  
ID No. 59

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF MONTANA

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IN RE:	)	
	)	
INCREDIBLE AUTO SALES, LLC	)	Chapter 11
	)	
Debtor.	)	Bankruptcy No. 06-60855
	)	

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MOTION TO MODIFY STAY, AND NOTICE  
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The Motion of Toyota Motor Credit Corporation, hereinafter “Creditor” respectfully represents:

1. The Debtor filed a Petition in this Court under Chapter 11 of the Bankruptcy Code on the 17<sup>th</sup> day of October, 2006.
2. Creditor is the holder of a secured claim against a motor vehicle held in the Debtor’s inventory and pursuant to Mont. LBR 4001-1 provides the following information:

b. The date upon which the subject debt was incurred was March 29, 2002.

c. Creditor holds a secured interest or lien upon the following described property of the estate: 1999 Toyota Corolla, Vehicle Identification No. 1NXBR12E8XZ227822. Collateral is located in Billings, Montana.

d. The nature of Creditor's security interest and the date upon which the security interest was obtained and the date upon which the security interest was perfected are as follows: Retail Installment Sales Contract dated March 29, 2002 and State of South Dakota Certificate of Lien Filing dated the 6<sup>th</sup> day of May, 2002. Creditor has attached copies of retail installment sales contract and title necessary to provide the validity of its security interest to its Proof of Claim filed herein, as required by Mont. LBR 4001-1; or if no Proof of Claim has been filed such documents are in the possession of Creditor's Attorney.

e. A description of Creditor's collateral including its location is as follows: 1999 Toyota Corolla, Vehicle Identification No. 1NXBR12E8XZ227822 located in Billings, Montana.

f. The fair market value of Creditor's collateral is \$3,975.00.

g. A description of and the amounts due upon any other security interests which have priority over that of Creditor are as follows: None.

h. If the Debtor is in default and the number of defaulted installments and the total amount in default: The contract is delinquent from October 13, 2006. At

Credit Corporation.

i. This Motion is made under and pursuant to the following subsection of 11 U.S.C. § 362: § 362 (d) (1) and (2).

j. Other facts which are relevant in determining whether relief should be granted are as follows: Upon information and belief Toyota Motor Credit Corporation's customer, Kit Veit, entered into a transaction with Debtor pursuant to which she traded in the vehicle at issue herein to Incredible Auto Sales, and pursuant to which transaction Toyota Motor Credit Corporation issued to Incredible Auto Sales a payoff statement, a copy of which is attached hereto marked as Exhibit "3". Incredible Auto Sales has failed and refused to pay off the underlying obligation in favor of Toyota Motor Credit Corporation pursuant to the trade-in and purchase transaction with its customer, Kit Veit.

3. Creditor further represents that in the event the Court grants this Motion, Creditor will seek foreclosure and liquidation of the above-described collateral in accordance with applicable non-bankruptcy law. Upon disposition of such collateral Creditor will account for all proceeds to the Court, and agrees to turn over any proceeds in excess of Creditor's allowed secured claim to the Court.

WHEREFORE, Creditor moves the Court to grant this Motion to Modify Stay

and to grant such other relief as the Court may deem appropriate.

0855-RBK Doc#: 266 Filed: 02/14/07 Entered: 02/14/07 13:32:31 Page 4

DATED this 14 day of February, 2007.

  
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PIERRE L. BACHELLER

Attorney for Toyota Motor Credit Corpora

NOTICE TO DEBTOR

If you object to the motion, you must file a written responsive pleading and request a hearing within ten (10) days of the date of the motion. The objecting party shall schedule the hearing and shall include in the caption of the responsive pleading the date, time and location of the hearing by inserting in the caption the following:

NOTICE OF HEARING

Date: \_\_\_\_\_

Time: \_\_\_\_\_

Location: \_\_\_\_\_

This contested matter shall be scheduled for hearing for the next hearing date scheduled in the division within which the case is filed. The date, time and location of the hearing can be obtained from the Clerk of Court or from the Court's website at [www.mtb.uscourts.gov](http://www.mtb.uscourts.gov). In the event such scheduled hearing date is thirty (30) days beyond the filing date of the motion for relief, then a preliminary hearing within such thirty (30) day period shall be scheduled by the responding party after such party contacts the Clerk of Court to confirm the preliminary hearing date and time, which shall be set forth in the response.

If you fail to file a written response to the above Motion to Modify Stay with the particularity required by Mont. LBR 4001-1(b), and request a hearing, within ten (10) days of the date of this Notice, with service on the undersigned and all parties entitled to service under all applicable rules, then your failure to respond or to request a hearing will be deemed an admission that the motion for relief should be granted without further notice or hearing.

DATED this 14<sup>th</sup> day of February, 2007.

  
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PIERRE L. BACHELLER

Attorney for Tomato Motor Credit



CERTIFICATE OF SERVICE

I certify that on this 14 day of February, 2007, I served the following parties with a true and accurate copy of the foregoing by depositing the same in the United States mail, postage prepaid and addressed as follows:

Incredible Auto Sales, LLC  
1832 King Avenue West  
Billings, MT 59102  
Debtor

William L. Needler  
555 Skokie Blvd., Suite 500  
Northbrook, IL 60062  
847 559-8330  
Attorney for Debtor  
(via electronic filing)

Daniel P. McKay  
Liberty Center, Suite 204  
301 Central Avenue  
Great Falls, MT 59401  
Trustee  
406 761-8777  
(via electronic filing)

Neal G. Jensen  
US Trustee's Office  
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